IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22/09/2004

Coram

The Honourable Mr. Justice A.K.RAJAN

Writ Petition No.14605 of 2003

R.Venkataramanan .. Petitioner

-Vs-

1. The New India Assurance Co.Ltd.
rep. by its Regional Manager,
OBLI Towers,
594, D.B. Road,
R.S.Puram,
Coimbatore 641 002.
2. Senior Divisional Manager
Cum Disciplinary Authority,
The New India Assurance Co.Ltd.
1st Floor, 242-B, Kamarajar Salai,
Madurai 625009.
3. R. Kalayanasundaram,
Asst.Liaison Officer for SC/ST,
Regional Office OBLI Towers,
594, D.B.Road,
R.S. Puram, Coimbatore 641002.
4. Dr.P.B. Wahne,
Liaison Officer for SC/ST,
Head Office, The New India
Assurance Co.Ltd.,
87, Mahatma Gandhi Road,
Fort, Mumbai 400 001.
5. V.M. Chandrasekaran,
Assistant Administrative Officer,
The New India Assurance Company,
II Floor, Rosary Church Building,
Town Hall Road, Madurai 1. .. Respondents

Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus as stated therein.

For petitioner:Mr. Alagirisamy,
Senior Counsel

For respondents: Mr. P. Sukumar for R1 and R2
Mr. N.K. Sampath for R5

:O R D E R
This Writ Petition has been filed praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent CBE RO:PERS:RR.2003 DT.10.4.2003 and to quash the same and consequently, direct the first respondent to reinstate the petitioner with all attendant benefits as stated therein.

2. The petitioner was appointed by the first respondent Company in the year 1979 on the basis of the Community Certificate produced by the petitioner as he belongs to Kammara Caste, Scheduled Tribe Community. Later, the first respondent suspected the genuineness of the Community Certificate and conducted enquiry. The petitioner's caste was verified with the School and College in which the petitioner had studied and found that he belongs to Gavarava Naidu Community. The petitioner also gave a letter admitting Gavarava Naidu Caste. On the basis of the enquiry findings, and on the admission of the Gaurava Naidu Caste by the petitioner, the petitioner was removed from service. Against his removal, the petitioner has filed this Writ Petition.

3. Learned Senior Counsel, Mr. K. Alagirisamy submits that the charges framed against the petitioner are all related to the Community Certificate produced by the petitioner at the time of his appointment but the Caste Certificate issued by the Tahsildar on 8.3.1979 is not yet cancelled. Hence, the respondents 1 and 2 could not take disciplinary action as if the petitioner has furnished false information about his community without referring the same to the competent authority to find out the genuineness and correctness of the Community Certificate and therefore, submits that the impugned order is liable to be set aside as without jurisdiction.

4. Learned counsel for the first respondent submits that the benefits meant for SC/STs cannot be usurped by any other person by producing false Certificate as per the decision held in Kumari Madhuri Patil and another vs. Addl.Comissioner, Tribal Development and others (AIR 1995 SUPREME COURT 94). The first respondent was satisfied that the petitioner has usurped the quota meant for SC/STs by producing false Community Certificate and hence, passed order removing the petitioner from service since the petitioner was found to be belonged to the Backward Community as per their enquiry.

5. Admittedly, the petitioner has given a letter dated 26.4.2001 that he belongs to Garava Naidu Caste, Backward Community. However, in the affidavit filed along with the Writ Petition in Para No.8, it is stated that the petitioner was advised to give such a letter and to withdraw his application for promotion by the third and fifth respondent assuring that lenient action will be taken against the petitioner instead of stern action and in such circumstances, the said letter was given by the petitioner. It appears that this letter was not given voluntarily but under compulsion by the third and fifth respondent. Further, it is stated that his father, K. Ramadoss belonged to Kammara Community and he had worked in the Royal Indian Air Force between 17.12.1943 and 1.10.1947. Moreover, the Certificate issued by the Tahsildar or RDO, which is valid on the date of issue, cannot be disbelieved by the first respondent. If the first respondent is of the view

that the petitioner does not belong to Scheduled Tribe Community, they can refer to the revenue authorities or Caste Scrutiny Committee to verify and cancel the certificate in accordance with law if necessary. Unless such cancellation is made, the first respondent cannot pass orders removing the petitioner.

6. For the reasons stated above, the impugned order is liable to be set aside and the same is set aside. The Writ Petition is allowed as prayed for. Insofar as the 5th respondent is concerned, he shall not be disturbed from the present position and also in future by the reinstatement of the petitioner.

Index: yes
Internet:yes

asvm

To

1. Regional Manager,
The New India Assurance Co.Ltd. (asvm)
OBLI Towers,
594, D.B. Road,
R.S.Puram,
Coimbatore 641 002.
2. Senior Divisional Manager
Cum Disciplinary Authority,

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